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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 UNITED STATES OF AMERICA,

No. CR S-04-0104-JAM-CMK  
CIV S-09-2655-JAM-CMK

12 Respondent,

13 vs.

ORDER

14 MARK STEVEN ERCKERT,

15 Movant.  
16 \_\_\_\_\_/

17 Movant, a federal prisoner proceeding pro se, brings this motion to correct or set  
18 aside a criminal judgment pursuant to 28 U.S.C. § 2255.

19 Pending before the court is Movant's application to proceed in forma pauperis  
20 (Doc. 221). Movant's indigency was previously established during the underlying criminal  
21 proceedings. His current application is therefore unnecessary, and will be denied as such.

22 Movant has also requested the appointment of counsel (Doc. 222). There  
23 currently exists no absolute right to appointment of counsel in § 2255 proceedings. See Irwin v.  
24 United States, 414 F.2d 606 (9th Cir. 1969). However, 18 U.S.C. § 3006A authorizes the  
25 appointment of counsel at any stage of the case "if the interests of justice so require." Rule 8(c),  
26 Rules Governing Section 2255 Proceedings. In the present case, the court does not find that the

1 interests of justice would be served by the appointment of counsel at this time.

2 Accordingly, IT IS HEREBY ORDERED that movant's application to proceed in  
3 forma pauperis (Doc. 221) and request for appointment of counsel (Doc. 222) are denied.

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5 DATED: November 17, 2009

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7 **CRAIG M. KELLISON**  
8 UNITED STATES MAGISTRATE JUDGE  
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